



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

January 18, 2002

By Facsimile and U.S. Mail

Paul Sullivan, Esq.
Foley & Lardner
888 16th Street, NW
Suite 700
Washington, D.C. 20006

RE: MURs 4568, 4633, 4634 and 4736
Robert Riley, Jr.
Bob Riley for Congress Committee

Dear Mr. Sullivan:

On January 14, 2002, the Federal Election Commission ("the Commission") accepted the conciliation agreement that you previously submitted on behalf of Robert Riley, Jr.; Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, in settlement of violations of the Federal Election Campaign Act of 1971, as amended. Enclosed is a copy of the signed conciliation agreement. Please be aware that your clients must submit a check for the civil penalty within ten (10) days.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(a) still apply to this matter. If you have any questions, please contact me at (202) 694-1590.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", is written over a horizontal line.

Mark Shonkwiler
Acting Assistant General Counsel

Enclosure: Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

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MURs 4568, 4633, 4634 and
4736

Robert Riley, Jr.,
Bob Riley for Congress Committee
and Hughel Goodgame, as treasurer

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn and notarized complaint by James Anderson, filed with the Federal Election Commission ("FEC" or "Commission") on April 25, 1997, five (5) months after the 1996 election when Bob Riley was elected to Congress. An investigation was conducted, and the Commission found probable cause to believe that Respondents Bob Riley for Congress Committee and Hughel Goodgame, as treasurer ("Riley Committee"), violated 2 U.S.C. §441a(f) by accepting excessive contributions from Robert Riley, Jr. and that Robert Riley, Jr. violated 2 U.S.C. §441a(a)(1)(A) by making excessive contributions to the Riley Committee. The Commission made a decision to take no further action and closed the file as it related to Congressman Bob Riley.

NOW, THEREFORE, the Commission and Respondents, having duly entered into conciliation pursuant to 2 U.S.C. §437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this case are as follows:
 1. Robert ("Bob") Riley was a candidate for the 1996 Republican nomination for the U.S. House of Representatives from Alabama's Third District. During 1996, Robert Riley, Jr., the son of Bob Riley, acted as an "advisor" to the Riley Committee and represented the Riley Committee in various matters. In the capacity of an advisor, Robert Riley, Jr. had conversations with Triad Management Services ("Triad") and other Triad representatives seeking their endorsement of his father's campaign.

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2. The Riley Committee is a political committee within the meaning of 2 U.S.C. §431(4), and was the principal campaign committee of Bob Riley during the 1996 election cycle.
 3. Hughel Goodgame is the current treasurer of the Riley Committee.
 4. American Free Enterprise PAC, Citizens Allied for the Free Enterprise PAC, Conservative Campaign Fund PAC, Faith Family and Freedom PAC and Eagle Forum PAC ("the PACs") were at all times relevant to this matter federal political committees registered with the Commission pursuant to 2 U.S.C. §433. However, none of them was an authorized committee of the Riley committee.
 5. Prior to May 9, 1996, Robert Riley, Jr., made a one thousand dollar (\$1,000.00) contribution directly to the Riley Committee for the 1996 Alabama Republican primary. Robert Riley, Jr., later made a one thousand (\$1,000.00) contribution to the Riley Committee for a primary run-off election and another one thousand dollar (\$1,000.00) contribution to the Riley Committee for the 1996 general election. Each of these contributions was permissible under the Federal Election Campaign Act of 1971, as amended ("FECA").
 6. Prior to May 28, 1996, Triad was a sole proprietorship operated by Carolyn Malenick. Following the incorporation of Triad on May 28, 1996, Carolyn Malenick was the corporation's President and sole Director.
 7. Prior to May 9, 1996, Robert Riley Jr., requested that Triad help convince conservative political action committees to endorse Bob Riley's 1996 primary campaign. During these conversations, Triad officials, who also worked to raise money for PACs with a conservative ideology, encouraged Robert Riley, Jr., to contribute to PACs that supported conservative positions and candidates. Triad regularly provided its clients and friends with information about several such PACs. Robert Riley, Jr. has testified that Triad provided him with information regarding approximately twelve (12) such conservative PACs.
 8. On May 9, 1996, Robert Riley, Jr. selected five (5) PACs of the twelve (12) PACs recommended by Triad and made contributions for one thousand dollars (\$1,000.00) to each of those five (5) PACs. Those PACs were: American Free Enterprises PAC, Citizens Allied for Free Enterprise PAC, Conservative Campaign Fund PAC, Faith Family and Freedom PAC and Eagle Forum PAC. As requested by Triad, Robert Riley, Jr., sent to Triad the

five (5) contribution checks that were made payable to each of the PACs. Triad forwarded the checks to the five (5) PACs. Absent the FEC's allegations in this matter, each of these contributions were permissible under the FECA.

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9. Three (3) of the five (5) PACs (Conservative Campaign Fund PAC, American Free Enterprise PAC, Citizens Allied for Free Enterprise PAC) made contributions of one thousand dollars (\$1,000.00) to the Riley Committee shortly after reporting the receipt of a contribution from Robert Riley, Jr. Faith Family and Freedom PAC made a contribution of five hundred dollars (\$500.00) to the Riley Committee shortly after receiving a contribution from Robert Riley, Jr. The Eagle Forum PAC contributed one thousand dollars (\$1,000.00) before reporting the receipt of the contribution from Robert Riley, Jr. subsequent to the primary election, which was won by Bob Riley. The Eagle Forum PAC made two additional separate contributions to the Riley Committee, each in the amount of five hundred dollars (\$500.00).
 10. The FECA states that no person shall make a contribution to a candidate and his authorized political committee with respect to any election for Federal office, which, in the aggregate, exceeds one thousand dollars (\$1,000.00) (2 U.S.C. §441a(a)(1)(A)). Likewise, no candidate or authorized committee shall knowingly accept a contribution from any individual with respect to any election for Federal office, which, in the aggregate, is in excess of one thousand dollars (\$1,000.00) (2 U.S.C. §441a(f)).
 11. A Federal Election Commission Regulation codified at 11 C.F.R. §110.1(h), and entitled "Contributions to committees supporting the same candidate" provides that:
 - "A person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting the same candidate in the same election so long as--
 - (1) The political committee is not the candidate's principal campaign committee or other authorized political committee or a single candidate committee;
 - (2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

12. Triad worked to raise money for PACs with a conservative ideology. Triad advertised its relationship with these PACs in written materials that it distributed to potential donors. Triad regularly provided potential donors and others with information on several such PACs, including American Free Enterprise PAC, Citizens Allied for Free Enterprise PAC, Conservative Campaign Fund PAC, Faith Family and Freedom PAC and Eagle Forum PAC. Triad has stipulated that it was its ordinary practice to share the information that it obtained from each PAC regarding its plans or willingness to contribute to specific 1996 congressional candidates with potential donors. Robert Riley, Jr. testified in his deposition that Triad's Carolyn Malenick encouraged him to give financially to PACs that supported conservative positions and candidates.
13. The Commission conducted extensive discovery in this matter including depositions of four of the individuals who made the decisions regarding which candidates four (4) of the PACs at issue would support and how much those PACs would contribute to a particular candidate. The Commission did not depose a representative of Eagle Forum PAC.
14. Each of the four (4) PAC representatives who were deposed stated that they did not know, nor had they ever heard of Robert Riley, Jr. prior to their making a contribution to the Riley Committee. Furthermore, each of the representatives testified that there was no agreement with Riley, Jr., Carolyn Malenick or any representative of Triad or the Riley Committee to contribute to the Riley Committee in the event Riley, Jr. contributed to their respective PACs.
15. Robert Riley, Jr. testified that there was neither an agreement between himself and Carolyn Malenick nor between himself and any of the PAC representatives, nor did he have knowledge that the Riley Committee would receive any contributions from PACs to which he contributed on May 9, 1996.
16. Furthermore, an affidavit from Carolyn Malenick was provided to the FEC that states that there was no earmarking of any monies that were sent to the five (5) PACs on behalf of Robert Riley, Jr., nor was there any expressed or implied, oral or written agreement to designate, or to instruct that those contributions be contributed to the Riley Committee. Malenick exercised her Fifth Amendment

privileges related to other requests for testimony. Additional affidavits were provided by members of the Riley Committee that also stated that there were no discussions by Riley campaign members with representatives of Triad or the PACs at issue regarding Riley, Jr.'s contribution to the PACs, nor were there any discussions regarding the PACs at issue contributing to the Riley Committee. The Respondents acknowledge that if Riley, Jr. had knowledge that a substantial portion of his PAC contributions would be contributed to the Riley Committee, it would constitute a violation of 11 C.F.R. 110.1(h).

17. There has been no direct evidence proffered that reflects that Robert Riley, Jr. had knowledge that the Riley Committee would receive a contribution from any of the PACs, in the event that Robert Riley, Jr. contributed to said PACs.
18. There has been no direct evidence proffered that the funds contributed by Robert Riley, Jr. to the PACs were in any way earmarked, directed or made with knowledge by Robert Riley, Jr. that they would be contributed, in whole or substantial part, to the Riley Committee. The Commission does not contend that Robert Riley Jr.'s contributions to the PACs were earmarked for the Riley Committee, or that Riley, Jr. retained control of the contributions once they were delivered to Triad for purposes of being passed on to the PACs.
19. Respondents contend that the contributions by Robert Riley, Jr. to the PACs as set out above were made for purposes of supporting the conservative philosophical positions of these political action committees and their respective efforts to support other conservative-oriented political candidates.

- V. 1. Based upon the facts reviewed by the Commission, including Triad's relationship to the PACs and its stipulated practices as to the sharing of information regarding PAC contribution plans, the flow of funds contributed by Riley, Jr. and its assessment of the credibility of witnesses and affidavits, as well as its interpretation of 11 C.F.R §110.1(h), the Commission has made a finding of Probable Cause that Respondent Robert Riley, Jr. violated 2 U.S.C. §441a(a)(1)(A) by making an excessive contribution to the Bob Riley for Congress Committee, and that the Bob Riley for Congress Committee violated 2 U.S.C. §441a(f) by accepting an excessive contribution. The Commission believes the payment of a money settlement is appropriate.

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2. Respondents agree that they will enter into this Conciliation Agreement as final settlement of this matter and for purposes of settling this matter without incurring the time and expense of defending a civil litigation action.
 3. The file in this matter will remain open until MURs 4568, 4633, 4634, and 4736 have been closed in accordance with 11 C.F.R. 111.20. During this time Respondents may supplement the record. Respondents represent they will make a submission supplementing this file.
- VI. The Riley Committee will pay to the Federal Election Commission the amount of ten thousand dollars (\$10,000.00) within 10 days of the Commission's acceptance of this agreement and shall further comply with FECA. 2 U.S.C. § 437g(a)(5). Respondents will comply with the contribution limits of 2 U.S.C. §441a.
- VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.
- VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.
- IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY:


Rhonda J. Vosdingh
Acting Associate General Counsel

1/18/02
Date

FOR THE RESPONDENTS:

Paul Sullivan
Paul E. Sullivan, Esq., Counsel
For Respondents

December 19, 2001
Date